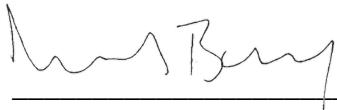


Approved:



Jonathan L. Bodansky
Assistant United States Attorney

23 MAG 5948

Before:

THE HONORABLE GABRIEL W. GORENSTEIN
United States Magistrate Judge
Southern District of New York

UNITED STATES OF AMERICA

v.

JOSE ALTAGRACIA AQUINO SUAREZ,
Defendant.

SEALED COMPLAINT

Violation of 8 U.S.C. §§ 1326(a) and
(b)(2)

COUNTY OF OFFENSE:
BRONX

SOUTHERN DISTRICT OF NEW YORK, ss.:

HENRY TSANG, being duly sworn, deposes and says that he is a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), and charges as follows:

COUNT ONE
(Illegal Reentry)

1. From at least on or about February 24, 2021, in the Southern District of New York and elsewhere, JOSE ALTAGRACIA AQUINO SUAREZ, the defendant, being an alien who has been denied admission, excluded, deported, and removed from the United States, and has departed the United States while an order of exclusion, deportation, and removal was outstanding, entered, and was found in, the United States, after removal that was subsequent to a conviction for commission of an aggravated felony, without having obtained the express consent of the Attorney General of the United States, or the Secretary for the Department of Homeland Security, to reapply for admission.

(Title 8, United States Code, Sections 1326(a) and (b)(2).)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Deportation Officer with ICE, assigned to the Enforcement and Removal Operations Criminal Prosecutions Group, and I have been personally involved in the investigation of this matter. This affidavit is based in part upon my conversations with law enforcement agents and others and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions,

statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. Based on my review of records maintained by ICE regarding JOSE ALTAGRACIA AQUINO SUAREZ, the defendant, as well as my review of court documents and criminal history records for AQUINO SUAREZ, I have learned the following:

a. AQUINO SUAREZ is a citizen of the Dominican Republic. AQUINO SUAREZ is not, and has never been, a citizen of the United States. AQUINO SUAREZ first entered the United States illegally in or about 2008.

b. On or about October 25, 2011, AQUINO SUAREZ pleaded guilty in the United States District Court for the Southern District of New York to (i) conspiracy to steal mail and possess stolen mail matter, in violation of 18 U.S.C. § 371; (ii) possession of stolen mail matter, in violation of 18 U.S.C. § 1708; (iii) conspiracy to defraud the United States with respect to claims, in violation of 18 U.S.C. § 286; and (iv) being an alien in possession of a firearm, in violation of 18 U.S.C. § 922(g)(5). On or about March 15, 2012, AQUINO SUAREZ was sentenced to 33 months' imprisonment on each count, to run concurrently. In connection with AQUINO SUAREZ's arrest in this case, a fingerprint card (the "2011 Fingerprint Card") bearing AQUINO SUAREZ's fingerprint impressions was prepared by the United States Postal Inspection Service (the "USPIS").

c. On or about August 6, 2013, AQUINO SUAREZ was removed from the United States (the "2013 Removal"), pursuant to a warrant of removal/deportation dated August 13, 2012 (the "2012 Warrant of Removal"). The 2012 Warrant of Removal bears AQUINO SUAREZ's name and fingerprint impression.

d. On or about February 24, 2021, AQUINO SUAREZ was arrested by the New York City Police Department (the "NYPD") in the Bronx, New York, for criminal possession of a controlled substance in the first degree, in violation of New York Penal Law § 220.21(1). On or about June 29, 2022, AQUINO SUAREZ pleaded guilty in New York County Supreme Court to criminal possession of a controlled substance in the first degree, in violation of New York Penal Law § 220.43(1), and was sentenced to 114 months' imprisonment. In connection with AQUINO SUAREZ's arrest in this case, a fingerprint card (the "2021 Fingerprint Card") bearing AQUINO SUAREZ's fingerprint impressions was prepared by the NYPD.

4. Based on my review of a fingerprint comparison report prepared by another law enforcement official, I have learned, in substance and in part, that the fingerprints from the 2011 Fingerprint Card, the 2012 Warrant of Removal, and the 2021 Fingerprint Card match one another.

5. A search of all relevant Department of Homeland Security indices has confirmed that, following the 2013 Removal, JOSE ALTAGRACIA AQUINO SUAREZ, the defendant, never obtained the express consent of the Attorney General of the United States, or the Secretary for the Department of Homeland Security, to reapply for admission to the United States.

6. Based on my training and experience with ICE, I understand that each of the offenses to which JOSE ALTAGRACIA AQUINO SUAREZ, the defendant, pleaded guilty on or

about October 25, 2011, *see supra* ¶ 3(b), qualifies as an “aggravated felony” within the meaning of 8 U.S.C. § 1326(b)(2). See 8 U.S.C. §§ 1101(a)(43)(E)(ii) (including § 922(g)(5) offenses), 1101(a)(43)(G) (including “a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment [is] at least one year”), 1101(a)(43)(M)(i) (including offenses that “involve[] fraud or deceit in which the loss to the victim or victims exceeds \$10,000”).

WHEREFORE, I respectfully request that a warrant be issued for the arrest of JOSE ALTAGRACIA AQUINO SUAREZ, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.

/s/ sworn telephonically

HENRY TSANG
Deportation Officer
Immigration and Customs Enforcement

Sworn to me through the transmission of
this Complaint by reliable electronic
means, this 8th day of August, 2023.



THE HONORABLE GABRIEL W. GORENSTEIN
United States Magistrate Judge
Southern District of New York